

1 AN ACT in relation to insurance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by  
5 changing Section 351B-5 and adding Section 367.4 as follows:

6 (215 ILCS 5/351B-5) (from Ch. 73, par. 963B-5)

7 Sec. 351B-5. Applicability of other Code provisions. All  
8 policies of accident and health insurance issued under this  
9 Article shall be subject to the provisions of Sections 356c,  
10 subsection (a) of Section 356g, 356h, 356n, 367.4, 367c, 367d,  
11 370, 370a, and 370e of this Code.

12 (Source: P.A. 86-1407; 87-792; 87-1066.)

13 (215 ILCS 5/367.4 new)

14 Sec. 367.4. Reporting of claims information to group health  
15 plan sponsor.

16 (a) In this Section, "group health plan", "health insurance  
17 coverage", "health insurance issuer", and "plan sponsor" have  
18 the meanings ascribed to those terms in the Illinois Health  
19 Insurance Portability and Accountability Act.

20 "Summary health information" means information that may be  
21 individually identifiable health information and (i) that  
22 summarizes the claims history, claims expenses, or type of  
23 claims experienced by individuals for whom a plan sponsor has  
24 provided health benefits under a group health plan and (ii)  
25 from which the information identifying an individual, a  
26 relative or employer of the individual, or a member of the  
27 individual's household has been deleted, except that  
28 information describing geographic subdivisions of a State need  
29 only be aggregated to the level of a 5-digit zip code.

30 (b) A group health plan, or a health insurance issuer or  
31 health maintenance organization with respect to a group health

1 plan, shall disclose summary health information to the plan  
2 sponsor if the plan sponsor requests the summary health  
3 information for the purpose of (i) obtaining premium bids from  
4 health plans for providing health insurance coverage under the  
5 group health plan or (ii) modifying, amending, or terminating  
6 the group health plan.

7 The plan documents of the group health plan must be amended  
8 to incorporate provisions to do the following:

9 (1) Establish the permitted and required uses and  
10 disclosures of such information by the plan sponsor.

11 (2) Provide that the plan sponsor agrees to not use or  
12 further disclose the information other than as permitted or  
13 required by the plan documents or as required by law.

14 (3) Provide that the plan sponsor agrees to not use or  
15 disclose the information for employment-related actions  
16 and decisions or in connection with any other benefit or  
17 employee benefit plan of the plan sponsor.

18 (4) Provide that the plan sponsor agrees to report to  
19 the group health plan any use or disclosure of the  
20 information that is inconsistent with the uses or  
21 disclosures provided for of which it becomes aware.

22 (5) Provide that the plan sponsor agrees to make  
23 available the information required to provide an  
24 accounting of disclosures.

25 (6) Provide that the plan sponsor agrees to make its  
26 internal practices, books, and records relating to the use  
27 and disclosure of the summary health information received  
28 from the group health plan available to the Director for  
29 purposes of determining compliance by the group health plan  
30 with this Section.

31 (7) Provide that the plan sponsor agrees to, if  
32 feasible, return or destroy all protected health  
33 information received from the group health plan that the  
34 sponsor still maintains in any form and retain no copies of  
35 such information when no longer needed for the purpose for  
36 which disclosure was made, except that, if such return or

1       destruction is not feasible, limit further uses and  
2       disclosures to those purposes that make the return or  
3       destruction of the information infeasible.

4       (c) A health insurance issuer may not report any  
5       information required under this Section the release of which is  
6       prohibited by State or federal law or regulation.

7       (d) A health insurance issuer must provide information  
8       under this Section in the aggregate, without any information  
9       through which a specific individual covered under the plan may  
10      be identified.

11      (e) Information obtained by a plan sponsor under this  
12      Section is confidential. The sponsor may use the information  
13      only for purposes relating to obtaining and maintaining health  
14      insurance coverage for the sponsor's employees (if the sponsor  
15      is an employer) or members (if the sponsor is an employee  
16      organization).

17           Section 10. The Health Care Purchasing Group Act is amended  
18           by changing Section 5 as follows:

19           (215 ILCS 123/5)

20           Sec. 5. Purpose; applicability of Illinois Health  
21           Insurance Portability and Accountability Act.

22           (a) The purpose and intent of this Act is to authorize the  
23           formation, operation, and regulation of health care purchasing  
24           groups (referred to in this Act as "HPGs") as described by this  
25           Act, to authorize the sale and regulation of health insurance  
26           products for employers that are sold to HPGs, and to encourage  
27           the development of financially secure and cost effective  
28           markets for the basic health care needs of employers,  
29           employees, and their dependents in this State. Nothing in this  
30           Act authorizes an employer to join with other employers to  
31           self-insure through risk pooling.

32           (b) All health insurance contracts issued under this Act  
33           are subject to the Illinois Health Insurance Portability and  
34           Accountability Act.

1       (c) All health insurance contracts issued under this Act  
2       are subject to Section 367.4 of the Illinois Insurance Code.

3       (Source: P.A. 90-337, eff. 1-1-98; 90-567, eff. 1-23-98.)

4       Section 15. The Health Maintenance Organization Act is  
5       amended by changing Section 5-3 as follows:

6           (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

7       Sec. 5-3. Insurance Code provisions.

8       (a) Health Maintenance Organizations shall be subject to  
9       the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,  
10       141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,  
11       154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,  
12       356y, 356z.2, 356z.4, 356z.5, 367.2, 367.2-5, 367.4, 367i,  
13       368a, 368b, 368c, 368d, 368e, 401, 401.1, 402, 403, 403A, 408,  
14       408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection  
15       (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2,  
16       XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

17       (b) For purposes of the Illinois Insurance Code, except for  
18       Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health  
19       Maintenance Organizations in the following categories are  
20       deemed to be "domestic companies":

21           (1) a corporation authorized under the Dental Service  
22       Plan Act or the Voluntary Health Services Plans Act;

23           (2) a corporation organized under the laws of this  
24       State; or

25           (3) a corporation organized under the laws of another  
26       state, 30% or more of the enrollees of which are residents  
27       of this State, except a corporation subject to  
28       substantially the same requirements in its state of  
29       organization as is a "domestic company" under Article VIII  
30       1/2 of the Illinois Insurance Code.

31       (c) In considering the merger, consolidation, or other  
32       acquisition of control of a Health Maintenance Organization  
33       pursuant to Article VIII 1/2 of the Illinois Insurance Code,

34           (1) the Director shall give primary consideration to

1 the continuation of benefits to enrollees and the financial  
2 conditions of the acquired Health Maintenance Organization  
3 after the merger, consolidation, or other acquisition of  
4 control takes effect;

5 (2) (i) the criteria specified in subsection (1) (b) of  
6 Section 131.8 of the Illinois Insurance Code shall not  
7 apply and (ii) the Director, in making his determination  
8 with respect to the merger, consolidation, or other  
9 acquisition of control, need not take into account the  
10 effect on competition of the merger, consolidation, or  
11 other acquisition of control;

12 (3) the Director shall have the power to require the  
13 following information:

14 (A) certification by an independent actuary of the  
15 adequacy of the reserves of the Health Maintenance  
16 Organization sought to be acquired;

17 (B) pro forma financial statements reflecting the  
18 combined balance sheets of the acquiring company and  
19 the Health Maintenance Organization sought to be  
20 acquired as of the end of the preceding year and as of  
21 a date 90 days prior to the acquisition, as well as pro  
22 forma financial statements reflecting projected  
23 combined operation for a period of 2 years;

24 (C) a pro forma business plan detailing an  
25 acquiring party's plans with respect to the operation  
26 of the Health Maintenance Organization sought to be  
27 acquired for a period of not less than 3 years; and

28 (D) such other information as the Director shall  
29 require.

30 (d) The provisions of Article VIII 1/2 of the Illinois  
31 Insurance Code and this Section 5-3 shall apply to the sale by  
32 any health maintenance organization of greater than 10% of its  
33 enrollee population (including without limitation the health  
34 maintenance organization's right, title, and interest in and to  
35 its health care certificates).

36 (e) In considering any management contract or service

1 agreement subject to Section 141.1 of the Illinois Insurance  
2 Code, the Director (i) shall, in addition to the criteria  
3 specified in Section 141.2 of the Illinois Insurance Code, take  
4 into account the effect of the management contract or service  
5 agreement on the continuation of benefits to enrollees and the  
6 financial condition of the health maintenance organization to  
7 be managed or serviced, and (ii) need not take into account the  
8 effect of the management contract or service agreement on  
9 competition.

10 (f) Except for small employer groups as defined in the  
11 Small Employer Rating, Renewability and Portability Health  
12 Insurance Act and except for medicare supplement policies as  
13 defined in Section 363 of the Illinois Insurance Code, a Health  
14 Maintenance Organization may by contract agree with a group or  
15 other enrollment unit to effect refunds or charge additional  
16 premiums under the following terms and conditions:

17 (i) the amount of, and other terms and conditions with  
18 respect to, the refund or additional premium are set forth  
19 in the group or enrollment unit contract agreed in advance  
20 of the period for which a refund is to be paid or  
21 additional premium is to be charged (which period shall not  
22 be less than one year); and

23 (ii) the amount of the refund or additional premium  
24 shall not exceed 20% of the Health Maintenance  
25 Organization's profitable or unprofitable experience with  
26 respect to the group or other enrollment unit for the  
27 period (and, for purposes of a refund or additional  
28 premium, the profitable or unprofitable experience shall  
29 be calculated taking into account a pro rata share of the  
30 Health Maintenance Organization's administrative and  
31 marketing expenses, but shall not include any refund to be  
32 made or additional premium to be paid pursuant to this  
33 subsection (f)). The Health Maintenance Organization and  
34 the group or enrollment unit may agree that the profitable  
35 or unprofitable experience may be calculated taking into  
36 account the refund period and the immediately preceding 2

1 plan years.

2 The Health Maintenance Organization shall include a  
3 statement in the evidence of coverage issued to each enrollee  
4 describing the possibility of a refund or additional premium,  
5 and upon request of any group or enrollment unit, provide to  
6 the group or enrollment unit a description of the method used  
7 to calculate (1) the Health Maintenance Organization's  
8 profitable experience with respect to the group or enrollment  
9 unit and the resulting refund to the group or enrollment unit  
10 or (2) the Health Maintenance Organization's unprofitable  
11 experience with respect to the group or enrollment unit and the  
12 resulting additional premium to be paid by the group or  
13 enrollment unit.

14 In no event shall the Illinois Health Maintenance  
15 Organization Guaranty Association be liable to pay any  
16 contractual obligation of an insolvent organization to pay any  
17 refund authorized under this Section.

18 (Source: P.A. 92-764, eff. 1-1-03; 93-102, eff. 1-1-04; 93-261,  
19 eff. 1-1-04; 93-477, eff. 8-8-03; 93-529, eff. 8-14-03; revised  
20 9-25-03.)

21 Section 20. The Limited Health Service Organization Act is  
22 amended by changing Section 4003 as follows:

23 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

24 Sec. 4003. Illinois Insurance Code provisions. Limited  
25 health service organizations shall be subject to the provisions  
26 of Sections 133, 134, 137, 140, 141.1, 141.2, 141.3, 143, 143c,  
27 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8,  
28 155.04, 155.37, 355.2, 356v, 367.4, 368a, 401, 401.1, 402, 403,  
29 403A, 408, 408.2, 409, 412, 444, and 444.1 and Articles IIA,  
30 VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the  
31 Illinois Insurance Code. For purposes of the Illinois Insurance  
32 Code, except for Sections 444 and 444.1 and Articles XIII and  
33 XIII 1/2, limited health service organizations in the following  
34 categories are deemed to be domestic companies:

- 1 (1) a corporation under the laws of this State; or  
2 (2) a corporation organized under the laws of another  
3 state, 30% of more of the enrollees of which are residents  
4 of this State, except a corporation subject to  
5 substantially the same requirements in its state of  
6 organization as is a domestic company under Article VIII  
7 1/2 of the Illinois Insurance Code.

8 (Source: P.A. 91-549, eff. 8-14-99; 91-605, eff. 12-14-99;  
9 91-788, eff. 6-9-00; 92-440, eff. 8-17-01.)

10 Section 25. The Voluntary Health Services Plans Act is  
11 amended by changing Section 10 as follows:

12 (215 ILCS 165/10) (from Ch. 32, par. 604)

13 Sec. 10. Application of Insurance Code provisions. Health  
14 services plan corporations and all persons interested therein  
15 or dealing therewith shall be subject to the provisions of  
16 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,  
17 149, 155.37, 354, 355.2, 356r, 356t, 356u, 356v, 356w, 356x,  
18 356y, 356z.1, 356z.2, 356z.4, 356z.5, 367.2, 367.4, 368a, 401,  
19 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)  
20 and (15) of Section 367 of the Illinois Insurance Code.

21 (Source: P.A. 92-130, eff. 7-20-01; 92-440, eff. 8-17-01;  
22 92-651, eff. 7-11-02; 92-764, eff. 1-1-03; 93-102, eff. 1-1-04;  
23 93-529, eff. 8-14-03; revised 9-25-03.)